

MEMORANDUM OF LAW

DATE: September 29, 1986

TO: John Lockwood, Assistant City Manager

FROM: City Attorney

SUBJECT: Political Activities

By memorandum of September 18, 1986 you asked for review and comment on the September 10, 1986 inquiry of Police Chief Bill Kolender regarding his activities in support of Proposition A and in opposition to Proposition 61.

We have previously reviewed the subject of political activity of City employees in the attached memoranda of August 20, 1985, February 20, 1985, August 7, 1981, June 20, 1975 and August 1, 1967 which are all attached for your review. Each affirms the right of the individual to participate in a political activity as long as it is not using City time, facilities, supplies or indicia of office. (See particularly February 20, 1985 Memorandum of Law, p. 2.)

This advice is founded on the constitutionally protected principle that the freedoms of speech, assembly and petition are not diminished by employment. While some limitations on partisan activities have been upheld, the same limitations have no basis in non-partisan matters. *CSC v. Letter Carriers*, 413 U.S. 548, 37 L.Ed.2d 796, 93 S.Ct. 2880 (1973).

Since each of the propositions referred to by Chief Kolender is non-partisan, that is, not identified with one political party, the constitutional safeguards remain unrestricted, except as noted above, as to the individual's activity. *Rhyne, Police and Firefighters Law The Law of Municipal Personnel Regulation*, pp. 217-242 (1982).

As to the concern that the Chief is on duty twenty-four (24) hours a day, we adopt an efficiency standard. The whole purpose in limiting political activity is to preserve governmental efficiency (*CSC v. Letter Carriers*, supra at 556). While the Chief of Police must be available around the clock, the actual

time on duty is dictated by tasks not ticks. Hence as long as the Chief's efficiency at his job irrespective of the hours devoted is not affected, his non-partisan participation with the propositions may continue.

JOHN W. WITT, City Attorney

By

Ted Bromfield

Chief Deputy City Attorney

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Attachments

ML-86-115